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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/529,329 | 05/23/2005 | Hendricus Antonius Hoogland | 294-211 PCT/US | 8654 |
| 23869 | 7590 | 07/12/2007 | | |
| HOFFMANN & BARON, LLP 6900 JERICO TURNPIKE SYOSSET, NY 11791 | | | EXAMINER GABLER, PHILIP FRANCIS | |
| | | | ART UNIT 3637 | PAPER NUMBER |
| | | | MAIL DATE 07/12/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|--|--|
| Office Action Summary | Application No. 10/529,329 | Applicant(s) HOOGLAND, HENDRICUS ANTONIUS | |
| | Examiner Philip Gabler | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) 13-18 and 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 13-18 and 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10 May 2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites "the support means" beginning on its first line. It is unclear if this is a reference to the "supporting means" or is an attempt to reference the top deck and bearing construction generally.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

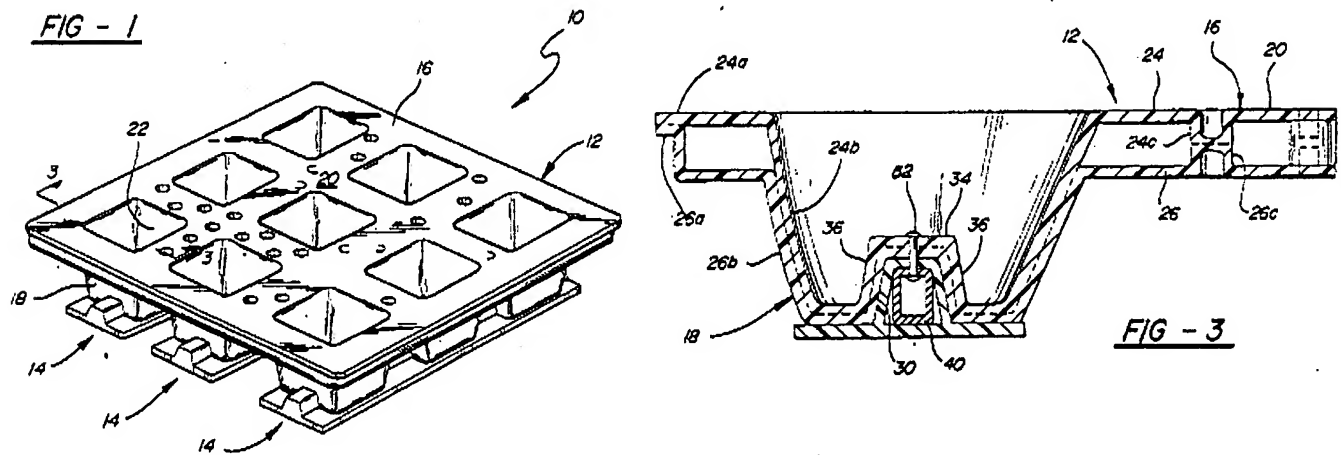
5. Claims 1-6, 8-10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shuert (US Patent Number 5117762).

6. Regarding claim 1, Shuert (Figures 1 and 3) discloses a pallet provided with a top deck (16) and a bearing construction (14, 18, etc.), wherein top deck and bearing construction are at least partly manufactured from plastic, while in the top deck and/or in the bearing construction and/or between the top deck and the bearing construction, supporting means (40, 52) are included while the top deck and the bearing construction are attached onto each other.

7. Regarding claims 2-6, Shuert further discloses the supporting means are made from metal (see column 3 lines 37-39), a material having a higher elasticity modulus than the top deck and bearing construction (which are made of plastic) and exhibiting creep or shrinkage which would deviate from that of the top deck and bearing construction, the supporting means arranged to be capable of preventing creep or shrinkage of the top deck or bearing construction and serving a top deck-supporting, rigidity enhancing function.

8. Regarding claims 8-10 and 12, Shuert further discloses the bearing construction comprises at least two and preferably three stringers (14) extending substantially

parallel to each other, wherein each stringer bears at least two and preferably three bearing elements (18) extending above a top surface of the stringers on which the top deck rests, the stringers having a longitudinal direction and wherein at least a part (52) of the supporting means extends in a direction including an angle with said longitudinal direction of approximately 90° , while another part (main portions of 40) of the supporting means extends in a direction approximately parallel to said longitudinal direction, while in each stringer a supporting element (elements 40), substantially confined in the plastic of the bearing construction, is included for rigidifying and/or protecting the respective stringer from creep, while the spaces between the stringers or the spaces between the bearing elements below the top deck are suitable for inserting tines of a forklift or pallet cart.



Shuert '762 Figures 1 and 3

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9. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyler et al. (US Patent Number 5868080).

10. Regarding claim 1, Wyler (Figures 10 and 11) discloses a pallet provided with a top deck (14) and a bearing construction (16, 68, 74, etc.), wherein top deck and bearing construction are at least partly manufactured from plastic, while in the top deck and/or in the bearing construction and/or between the top deck and the bearing construction, supporting means (32) are included while the top deck and the bearing construction are attached onto each other.

11. Regarding claims 2-5 and 7, Wyler further discloses the supporting means are made from reinforced plastic (see column 4 lines 21-23), a material having a higher elasticity modulus than the top deck and bearing construction (which are made of unreinforced plastic) and exhibiting creep or shrinkage which would deviate from that of the top deck and bearing construction, the supporting means arranged to be capable of preventing creep or shrinkage of the top deck or bearing construction and serving a top deck-supporting, rigidity enhancing function.

12. Regarding claims 8-10 and 12, Wyler further discloses the bearing construction comprises at least two and preferably three stringers (74) extending substantially parallel to each other, wherein each stringer bears at least two and preferably three bearing elements (16) extending above a top surface of the stringers on which the top deck rests, the stringers having a longitudinal direction and wherein at least a part (the flanges of the beams) of the supporting means extends in a direction including an angle with said longitudinal direction of approximately 90°, while another part (main portion of

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the beams) of the supporting means extends in a direction approximately parallel to said longitudinal direction, while in each stringer a supporting element (elements 32), substantially confined in the plastic of the bearing construction, is included for rigidifying and/or protecting the respective stringer from creep, while the spaces between the stringers or the spaces between the bearing elements below the top deck are suitable for inserting tines of a forklift or pallet cart.

13. Regarding claim 11, Wyler further discloses injection molding in the pallet (see for example column 3 lines 57-61).

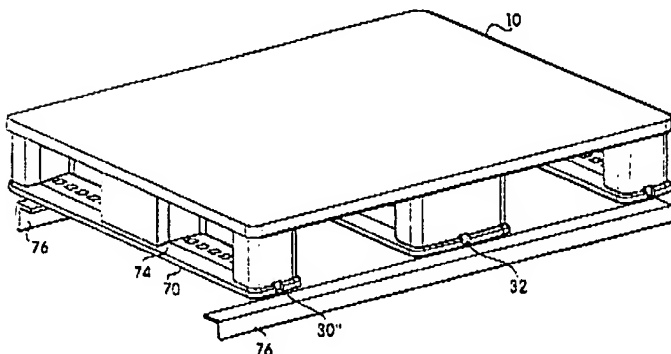


Fig. 10

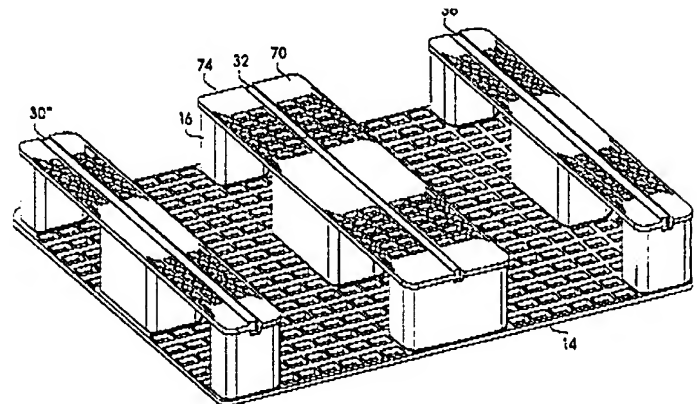


Fig. 11

Wyler et al. '080 Figures 10 and 11

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuert. Shuert discloses a pallet structurally as claimed including a molded plastic top deck and bearing construction, as well as supporting elements manufactured from a different material, which would exhibit different creep than the top deck and bearing construction, but he does not specifically disclose a method of manufacturing the pallet. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the pallet as prescribed by Applicant's method because the normal construction of the pallet would encompass the steps as set forth.

16. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyler. Wyler discloses a pallet structurally as claimed including a molded plastic top deck and bearing construction, as well as supporting elements manufactured from a different material, which would exhibit different creep than the top deck and bearing construction, but he does not specifically disclose a method of manufacturing the pallet. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the pallet as prescribed by Applicant's method because the normal construction of the pallet would encompass the steps as set forth.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Favaron et al. (US Patent Number 6199488), Gronnevik (US Patent Number 5845588), and Sadr (US Patent Number 5417167) references are cited for disclosing various aspects of the invention of the instant application.

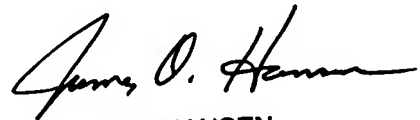
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG 
6/14/2007


JAMES O. HANSEN
PRIMARY EXAMINER